

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BRANDON J. RUBIO,

Plaintiff,

v.

KING COUNTY, *et al.*,

Defendants.

Case No. C16-1269-JCC-JPD

ORDER DENYING PLAINTIFF'S THIRD
MOTION FOR APPOINTMENT OF
COUNSEL

This is a civil rights action brought under 42 U.S.C. § 1983. This matter comes before the Court at the present time on plaintiff's third motion for appointment of counsel. Plaintiff's first two motions for appointment of counsel were previously denied by the Court. (*See* Dkts. 16, 19 and 21.) Plaintiff now, once again, asks that counsel be appointed to represent him in this action. (Dkt. 27.) Defendants oppose plaintiff's motion. (Dkt. 28.) The Court, having reviewed plaintiff's motion, defendants' response, and the balance of the record, hereby finds and ORDERS as follows:

(1) Plaintiff's third motion for appointment of counsel (Dkt. 27) is DENIED. As plaintiff was previously advised, there is no right to have counsel appointed in cases brought

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1 under 42 U.S.C. § 1983. Although the Court, under 28 U.S.C. § 1915(e)(1), can request counsel
2 to represent a party proceeding *in forma pauperis*, the Court may do so only in exceptional
3 circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v.*
4 *Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980).
5 A finding of exceptional circumstances requires an evaluation of both the likelihood of success
6 on the merits and the ability of the plaintiff to articulate his claims pro se in light of the
7 complexity of the legal issues involved. *Wilborn*, 789 F.2d at 1331.

8 Defendants correctly note in their response to plaintiff's motion that the instant motion
9 differs little, if at all, from plaintiff's previous requests for appointment of counsel. Plaintiff
10 argues that he is unable to afford counsel, that his imprisonment will limit his ability to litigate
11 this action because the issues involved are complex and will require significant research and
12 investigation, and that counsel would be better able to present evidence and cross-examine
13 witnesses at trial. The Court considered these same arguments in denying plaintiff's prior
14 motions for appointment of counsel.

15 The only piece of new information plaintiff offers in the instant motion is that the Pro
16 Bono Screening Committee has reviewed a motion for appointment of counsel filed by plaintiff
17 in another pending civil rights action, *Rubio v. DeJesus*, C16-1307-JCC, and that the Screening
18 Committee has recommended counsel be appointed in that case. However, the fact that
19 appointment of counsel may have been deemed appropriate in another case does not alter this
20 Court's conclusion that plaintiff has not demonstrated that *this* case involves exceptional
21 circumstances warranting appointment of counsel. Plaintiff's third motion for appointment of
22 counsel is therefore denied.

DATED this 22nd day of February, 2017.

JAMES P. DONOHUE

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